

(c) *Reduction of undistributed capital gain for prior capital gain distributions.* For the purposes of allocating to any preceding taxable year a capital gain distribution of the taxable year, the undistributed capital gain of such preceding taxable year is reduced by the amount from such year deemed distributed in any capital gain distribution made in any taxable year intervening between such preceding taxable year and the taxable year. Accordingly, for example, if a trust subject to the capital gain throwback has no undistributed net income but has undistributed capital gain for 1974, and makes capital gain distributions during the taxable years 1978 and 1979, then in determining that part of the 1979 capital gain distribution that is thrown back to 1974, the undistributed capital gain for 1974 is reduced by the amount of such undistributed capital gain for 1974 deemed distributed in the 1978 capital gain distribution.

(d) *Rule when no undistributed capital gain.* If, before the application of the provisions of subpart D to a capital gain distribution for the taxable year, there is no undistributed capital gain for a preceding taxable year, then no portion of the capital gain distribution is deemed distributed on the last day of such preceding taxable year. Thus, for example, if a capital gain distribution is made during the taxable year 1975 from a trust whose earliest preceding taxable year is taxable year 1970, and the trust had no undistributed capital gain for 1970, then no portion of the 1975 capital gain distribution is deemed distributed on the last day of 1970.

(e) *Example.* The provisions of this section may be illustrated by the following example:

Example. In 1977, a trust reporting on the calendar year basis makes a capital gain distribution of \$33,000. In 1969, the trust had \$6,000 of undistributed capital gain; in 1970, \$4,000; in 1971, none; in 1972, \$7,000; in 1973, \$5,000; in 1974, \$8,000; in 1975, \$6,000; in 1976, \$4,000; and \$6,000 in 1977. The capital gain distribution is deemed distributed \$6,000 in 1969, \$4,000 in 1970, none in 1971, \$7,000 in 1972, \$5,000 in 1973, \$8,000 in 1974, and \$3,000 in 1975.

[T.D. 7204, 37 FR 17153, Aug. 25, 1972]

§ 1.669(b)-1A Tax on distribution.

(a) *In general.* The partial tax imposed on the beneficiary by section 668(a)(3) shall be the lesser of:

(1) The tax computed under paragraph (b) of this section (the “exact” method), or

(2) The tax computed under paragraph (c) of this section (the “short-cut” method),

except as provided in § 1.669(c)-3A (relating to failure to furnish proper information) and paragraph (d) of this section (relating to disallowance of short-cut method). For purposes of this paragraph, the method used in the return shall be accepted as the method that produces the lesser tax. The beneficiary’s choice of the two methods is not dependent upon the method that he uses to compute his partial tax imposed by section 668(a)(2).

(b) *Computation of partial tax by the exact method.* The partial tax referred to in paragraph (a)(1) of this section is computed as follows:

(1) First, compute the tax attributable to the section 669 amounts for each of the preceding taxable years. For purposes of this paragraph, the “section 669 amounts” for a preceding taxable year are the amounts deemed distributed under section 669(a) on the last day of such preceding taxable year, plus the amount of taxes deemed distributed on such day under section 669 (d) or (e). The tax attributable to such amounts in each prior taxable year of the beneficiary is the difference between the tax for such year computed with the inclusion of the section 669 amounts in the beneficiary’s gross income and the tax for such year computed with the inclusion of them in such gross income. Tax computations for each such year shall reflect a taxpayer’s marital, dependency, exemption, and filing status for such year. To the extent the undistributed capital gain of a trust deemed distributed in a capital gain distribution includes amounts received as a capital gain distribution from another trust, for purposes of this paragraph they shall be considered as amounts deemed distributed by the trust under section 669(a) on the last day of each of the preceding taxable years in which such amounts were accumulated by such other trust.

For example, assume trust Z, a calendar year trust received in its taxable year 1975 a capital gain distribution from trust Y, a calendar year trust, that included undistributed capital gain of trust Y for the taxable years 1972, 1973, and 1974. To the extent a capital gain distribution made by trust Z in its taxable year 1976 includes such undistributed capital gain, it shall be considered a capital gain distribution by trust Z in the taxable year 1976 and under section 669(a) will be deemed distributed on the last day of the preceding taxable years 1972, 1973, and 1974.

(2) From the sum of the taxes for the prior taxable years attributable to the section 669(a) amounts (computed in accordance with subparagraph (1) of this paragraph), subtract so much of the amount of taxes deemed distributed to the beneficiary under §§ 1.669(d)-1A and 1.669(e)-1A as does not exceed such sum. The resulting amount, if any, is the partial tax on the beneficiary, computed under the exact method, for the taxable year in which the capital gain distribution is paid, credited, or required to be distributed to the beneficiary.

(c) *Computation of tax by the short-cut method.* (1) The tax referred to in paragraph (a)(2) of this section is computed as follows:

(i) First, determine the number of preceding taxable years of the trust on the last day of which an amount is deemed under section 669(a) to have been distributed. For purposes of the preceding sentence, the preceding taxable years of a trust that has received a capital gain distribution from another trust shall include the taxable years of such other trust in which an amount was deemed distributed in such capital gain distribution. For example, assume trust Z, a calendar year trust, received in its taxable year 1975 a capital gain distribution from trust Y, a calendar year trust, that included undistributed capital gain of trust Y for the taxable years 1972, 1973, and 1974. To the extent a capital gain distribution made by trust Z in its taxable year 1976 includes such undistributed capital gain, it shall be considered a capital gain distribution by trust Z in the taxable year 1976 and under section

669(a) will be deemed distributed on the last day of the preceding taxable years 1972, 1973, and 1974. For purposes of this subparagraph, such number of preceding taxable years of the trust shall not include any preceding taxable year of the trust in which the undistributed capital gain deemed distributed is less than 25 percent of (a) the total amounts deemed under section 669(a) to be undistributed capital gain from preceding taxable years, divided by (b) the number of such preceding taxable years of the trust on the last day of which an amount is deemed under section 669(a) to have been distributed without application of this sentence. For example, assume that a capital gain distribution of \$90,000 made to a beneficiary in 1979 is deemed distributed in the amounts of \$29,000 in each of the years 1972, 1973, and 1974, and \$3,000 in 1975. The number of preceding taxable years on the last day of which an amount was deemed distributed without reference to the second sentence of this subparagraph is 4. However, the distribution deemed made in 1975 (\$3,000) is less than \$5,625, which is 25 percent of (a) the total undistributed capital gain deemed distributed under section 669(a) (\$90,000) divided by (b) the number of such preceding taxable years (4), or \$22,500. Therefore, for purposes of this subparagraph, the capital gain distribution is deemed distributed in only 3 preceding taxable years (1972, 1973, and 1974).

(ii) Second, divide the amount (representing the capital gain distribution and taxes deemed distributed) required under section 668(a) to be included in the income of the beneficiary for the taxable year by the number of preceding taxable years of the trust on the last day of which an amount is deemed under section 669(a) to have been distributed (determined as provided in subdivision (i) of this paragraph). The amount determined under this subdivision, including taxes deemed distributed, consists of the same proportion of long-term and short-term capital gain as the total of each type of capital gain deemed distributed in the capital gain distribution bears to the total undistributed capital gain from such preceding taxable years deemed distributed in the capital gain distribution. For example, assume that an amount

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of \$50,000 is deemed distributed under section 669(a) from undistributed capital gain of 5 preceding taxable years of the trust, and consists of \$30,000 of long-term capital gain and \$20,000 of short-term capital gain. Taxes attributable to such amounts in the amount of \$10,000 are also deemed distributed. The amount determined under this subdivision, \$12,000 (\$50,000 income plus \$10,000 tax, divided by 5 years), is deemed to consist of \$7,200 of long-term capital gain and \$4,800 in short-term capital gain.

(iii) Third, compute the tax of the beneficiary for each of the 3 taxable years immediately preceding the year in which the capital gain distribution is paid, credited, or required to be distributed to him,

(a) With the inclusion in gross income of the beneficiary for each of such 3 years of the amount determined under subdivision (ii) of this subparagraph, and

(b) Without such inclusion.

The difference between the amount of tax computed under (a) of this subdivision for each year and the amount computed under (b) of this subdivision for that year is the additional tax resulting from the inclusion in gross income for that year of the amount determined under subdivision (ii) of this subparagraph.

(iv) Fourth, add the additional taxes resulting from the application of subdivision (iii) of this subparagraph and then divide this amount by 3.

(v) Fifth, the resulting amount is then multiplied by the number of preceding taxable years of the trust on the last day of which an amount is deemed under section 669(a) to have been distributed (previously determined under subdivision (i) of this subparagraph).

(vi) The resulting amount, less so much of the amount of taxes deemed distributed to the beneficiary under §§ 1.669(d)-1A and 1.669(e)-1A as does not exceed such resulting amount, is the tax under the short-cut method provided in section 669(b)(1)(B).

(2) See § 1.668(b)-1A(c) for examples of the short-cut method in the context of an accumulation distribution.

(d) *Disallowance of short-cut method.* If, in any prior taxable year of the beneficiary in which any part of the cap-

ital gain distribution is deemed to have been distributed under section 669(a) to such beneficiary, any part of prior capital gain distributions by each of two or more other trusts is deemed under section 669(a) to have been distributed to such beneficiary, then the short-cut method under paragraph (c) of this section may not be used and the partial tax imposed by section 668(a)(3) shall be computed only under the exact method under paragraph (b) of this section. For example, assume that, in 1978, trust X makes a capital gain distribution to A, who is on the calendar year basis, and part of the distribution is deemed under section 669(a) to have been distributed on March 31, 1974. In 1977, A had received a capital gain distribution from both trust Y and trust Z. Part of the capital gain distribution from trust Y was deemed under section 669(a) to have been distributed to A on June 30, 1974, and part of the capital gain distribution from trust Z was deemed under section 669(a) to have been distributed to A on December 31, 1974. Because there were portions of capital gain distributions from two other trusts deemed distributed within the same prior taxable year of A (1974), the 1978 capital gain distribution from trust X may not be computed under the short-cut method provided in paragraph (c) of this section. Therefore the exact method under paragraph (b) of this section must be used to compute the tax imposed by section 668(a)(3).

[T.D. 7204, 37 FR 17153, Aug. 25, 1972]

§ 1.669(c)-1A Special rules applicable to section 669.

(a) *Effect of other distributions.* The income of the beneficiary, for any of his prior taxable years for which a tax is being recomputed under § 1.669(b)-1A, shall include any amounts of prior accumulation distributions (including prior capital gain distributions) deemed distributed under sections 666 and 669 in such prior taxable year. For purposes of the preceding sentence, a *prior accumulation distribution* is a distribution from the same or another trust which was paid, credited, or required to be distributed in a prior taxable year of the beneficiary. The term *prior accumulation distribution* also includes accumulation distributions of